

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSEPH AMOROSO,

Plaintiff(s),

REPORT AND RECOMMENDATION

-against-

CV 08-0826 (JFB) (ETB)

COUNTY OF SUFFOLK,

Defendant(s).

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TO THE HONORABLE JOSEPH F. BIANCO, United States District Judge:

This is a prisoner civil rights action for excessive force arising from the plaintiff's arrest and prosecution in the state court (Suffolk County) for unlawful possession of a weapon on August 6, 2007.

Discovery was certified as complete on November 17, 2009. The plaintiff was directed to file a list of trial witnesses and trial exhibits on April 30, 2010. The County defendants were directed to file a pre-trial order on the same date. Neither party complied.

By order, dated May 19, 2010, the parties were afforded to June 7, 2010 to comply. The County defendants did so, however, the pro se plaintiff has not.

The case was adjourned to June 29, 2010, and the parties were directed to appear in person.

Although the County Attorney served the pro se plaintiff at the address provided by his parole officer - 46 West Broadway, Port Jefferson Station, New York 11776 - and although that mailing was not returned to the County Attorney's Office, the pro se plaintiff has failed to appear or otherwise communicate with the court following his release from State custody on February 26, 2010.

Thus, the plaintiff has failed to appear at the last two (2) conferences held by the court and failed to file a list of trial witnesses and trial exhibits.

RECOMMENDATION

This action should be dismissed, without prejudice, pursuant to Rule 41(b), based on the plaintiff's failure to comply with the orders of the court and his apparent abandonment of this action.

OBJECTIONS TO THIS REPORT AND RECOMMENDATION

Any written objections to this Report and Recommendation must be filed with the Clerk of the Court, with a copy to the undersigned, within fourteen (14) days of service of this Report. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 72(b). Failure to file objections within fourteen (14) days will preclude further appellate review. Thomas v. Arn, 474 U.S. 140, 145 (1985); IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1054 (2d Cir. 1993); Frank v. Johnson, 968 F.2d 298, 299-300 (2d Cir. 1992).

Dated: Central Islip, New York
June 30, 2010

/s/ E. Thomas Boyle
E. THOMAS BOYLE
United States Magistrate Judge